UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA ALEXANDRIA DIVISION

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ANDREW L. CIBULA, et al.)				_	$\parallel \parallel \parallel \parallel$
Plaintiffs,))				2012	ושן
v.) No. 1:05-CV-01386	CL	ERK, U.S ALEXAN	DIST DRIA,	RICT CO VIRGINI	URT A
UNITED STATES OF AMERICA,))					
Defendant.))					

CONSENT ORDER

Upon remand from the United States Court of Appeals for the Fourth Circuit, pursuant to Cibula v. United States, 664 F.3d 428 (4th Cir. 2012), and having considered the submissions of the parties and the entire record, it is ORDERED that the parties' Proposed Consent Order is hereby entered.

It is FURTHER ORDERED in accordance with the JUDGMENT, dated March 27, 2007, that the total amount remaining to be disbursed is \$25,184,489, which consists of the present value sum \$22,823,718 for future care needs (of which \$1,687,500 shall be classified and paid as "the future care payments for years 2007 through 2011") and the present value sum of \$2,360,771 for lost future earnings.

It is FURTHER ORDERED that SunTrust Bank is hereby appointed Trustee of the "J.C. Reversionary Trust."

It is FURTHER ORDERED that within 90 days of this Order, the United States shall deposit into the IOLTA Trust Account of Klores, Perry, Mitchell, P.C., the total sum of \$25,184,489 to be paid by Klores, Perry, Mitchell, P.C., as follows:

1. To Captain Andrew Cibula and Mrs. Jennifer Cibula, the Co-Trustees of the Cibula

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Family Trust, the sum of \$1,770,579, which represents the net of the award for the lost future earnings after deducting 25% attorneys' fees.

- 2. To SunTrust Bank, the Court-Appointed Trustee of the "J.C. Reversionary Trust," the sum of \$15,430,289, which represents the net of the award for future care needs after deducting 25% attorneys' fees and the future care payments for years 2007 through 2011.
- 3. To Captain Andrew Cibula and Mrs. Jennifer Cibula, Co-Trustees of the Cibula

 Family Trust, the sum of \$1,687,500, which represents the net of the future care payments for years 2007 through 2011.
- 4. To Klores, Perry, Mitchell, P.C., the sum of \$6,296,122, which represents attorneys' fees of 25% of the awards for future care needs and lost future earnings.

It is FURTHER ORDERED that SunTrust Bank, the Court-Appointed Trustee of the "J.C. Reversionary Trust," shall deposit the sum of \$15,430,289 received by Klores, Perry, Mitchell, P.C., in a separate segregated account for the sole and exclusive purpose of making the payments authorized by this Order. SunTrust Bank, the Court-Appointed Trustee of the "J.C. Reversionary Trust," shall not co-mingle the \$15,430,289, and any interest or dividends thereon, with any other funds or assets, including any other funds or assets of Plaintiff J.C.

It is FURTHER ORDERED that SunTrust Bank, the Court-Appointed Trustee of the "J.C. Reversionary Trust," shall make the payments specified in the schedule of future annual payments (hereinafter "Schedule") appended hereto as Appendix A on the dates, and in the amounts, stated in said Schedule.

It is FURTHER ORDERED that said Schedule is fixed and unmodifiable and that SunTrust Bank, the Court-Appointed Trustee of the "J.C. Reversionary Trust," shall have no power or authority to deviate from the dates and amounts stated in said Schedule.

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It is FURTHER ORDERED that SunTrust Bank, the Court-Appointed Trustee of the "J.C. Reversionary Trust," shall make no payments from the "J.C. Reversionary Trust" except (1) those payments specified in said Schedule on the dates and in the amounts stated therein, regardless of Plaintiff J.C.'s medical or other needs, and (2) its trustee fees. SunTrust Bank shall be entitled to receive said fees based on the trust corpus in accordance with its published fee schedule in effect when services are rendered, the current published Schedule of Annual Fees is appended hereto as Appendix B.

It is FURTHER ORDERED that SunTrust Bank, the Court-Appointed Trustee of the "J.C. Reversionary Trust," shall pay said future annual payments until the date of Plaintiff J.C.'s death, the final payment stated in the Schedule at the expiration of 64.8 years, or the depletion of the trust corpus, whichever occurs first. Said future annual payments shall be made payable to Plaintiff J.C.'s parents in the absence of a court order to the contrary.

It is FURTHER ORDERED that SunTrust Bank, the Court-Appointed Trustee of the "J.C. Reversionary Trust," shall provide the United States of America with written notice at time each future annual payment is made providing the date and amount of each such payment and a periodic statement of account activities on a minimum of an annual basis. The notice and periodic statement of account to be provided to the United States shall be mailed to the following address, or upon written notice, any subsequent change of address: Director, Torts Branch (FTCA Staff), Civil Division, United States Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, D.C. 20044.

It is FURTHER ORDERED that upon the death of Plaintiff J.C., upon the final payment stated in the Schedule, or the depletion of the trust corpus, whichever occurs first, SunTrust Bank, the Court-Appointed Trustee of the "J.C. Reversionary Trust," shall cease making the

periodic payments.

It is FURTHER ORDERED that, in the event funds remain in the trust corpus at the death of Plaintiff J.C. or upon the final payment stated in the Schedule, whichever occurs first, SunTrust Bank, the Court-Appointed Trustee, of the "J.C. Reversionary Trust" shall pay the entire balance of the trust corpus to the United States of America. The payment shall be made payable to the United States Treasury, fbo Andrew L. Cibula, et al., and mailed to the following address, or upon written notice, any subsequent change of address: Director, Torts Branch (FTCA Staff), Civil Division, United States Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, D.C. 20044.

It is FURTHER ORDERED that SunTrust Bank, the Court-Appointed Trustee of the "J.C. Reversionary Trust," shall make no payments from the "J.C. Reversionary Trust" except those expressly Ordered above.

It is FURTHER ORDERED that, upon the death of Plaintiff J.C., the Plaintiffs, including the heirs and beneficiaries of Plaintiff J.C.'s estate, shall provide to the Clerk of this Court, the Court-Appointed Trustee of the "J.C. Reversionary Trust," and the United States a certified death certificate within ten (10) days of the date of Plaintiff J.C.'s death. The certified death certificate shall be mailed to the United States at the following address, or upon written notice, any subsequent change of address: Director, Torts Branch (FTCA Staff), Civil Division, United States Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, D.C. 20044.

It is FURTHER ORDERED that the net sum previously paid by the United States to the Plaintiffs in satisfaction of J.C.'s pain and suffering award (\$187,500) currently held in the escrow account of Plaintiffs' counsel may be paid to the Cibula Family Trust.

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06-18-'12 14:25 FROM- Thompson Wildhack

703-237-0082

T-1 J P0001/0001 F-191

THOMAS W. MITCHELL, 1994. Attorneys for Plaintiffs

Court-Appointed Guardian Ad Litem for J.C.

SunTrust Bank Court-Appointed Trustee

TITLE OF CORPORATE OFFICER

R. JOSEPH SHER, Esq. BRINGET BAILEY LIPSCOMB, Esq.

Attorneys for the United States of America

SO ORDERED:

Gerald Bruce Lee United States District Judge HONORABLE GERALD BRUCE LEB United States District Judge

/s/

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WE ASK FOR THIS:	
ANDREW L. CIBULA, Plaintiff	
JENNIFER L. CIBULA, Plaintiff	
BRUCE J. KLORES, Esq. THOMAS W. MITCHELL, Esq. Attorneys for Plaintiffs	
KELLY THOMPSON, Esq. Court-Appointed Guardian Ad Litem for J.C	
SunTrust Bank Court-Appointed Trustee	
By: DU (Q	, Senior Vice President avid W. Kester
R. JOSEPH SHER, Esq. BRIDGET BAILEY LIPSCOMB, Esq. Attorneys for the United States of America	
	SO ORDERED:
Dated:	HONORABLE GERALD BRUCE LEE United States District Judge

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APPENDIX A

				Pres	ent Value	Cal	culation			
						1]	
	\Box			<u> </u>	Revised 12-Jun-12	+		+	+	
unalysis Date					4.250%	+		-{ }		
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evised Payr	nent PV	:		\$	17,117,789	Ш				
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0		27-Mar-07		\$		\Box			_ \$	•
1 2		1-Nov-07 1-Nov-08	H	\$		Н	219 585	0.60 1.60	_ \$	-
3		1-Nov-09	-	\$		H	950	2.60	- <u>'</u> ;	-
4	_	1-Nov-10	Н	3		H	1,315	3.60	- <u>`</u>	_
5		1-Sep-12		\$	1,687,500	П	1,985	5.44	\$ 1,3	345,674
6		1-Nov-12		\$	156,805		2,046	5.61	_	124,170
7		1-Nov-13		\$	199,089	Ц	2,411	6.61		151,23
8	 	1-Nov-14	L	\$	155,413	Н	2,776	7.61	_	113,243 260 61/
9 10		1-Nov-15 1-Nov-16	\vdash	\$	372,865 407,531	Н	3,141 3,507	9.61		260,61/ 273,20(
11		1-Nov-17	H	\$	416,291	Н	3,872	10.61		267,59
12		1-Nov-18	Г	\$	427,103	П	4,237	11.61		263,45
13		1-Nov-19		\$	443,637		4,602	12.61		262,49
14	_	1-Nov-20		\$	483,485		4,968	13.61		274,37
15	-	1-Nov-21	_	\$	491,988	Ц	5,333	14.61	_ `	267,82
16		1-Nov-22	H	\$	507,653 528,262	Н	5,698 6,063	15.61 16.61		265,08: 264,59:
18		1-Nov-23 1-Nov-24	⊢	3	554,424	Н	6,429	17.61		266,35
19		1-Nov-25	┪	\$	576,239	Н	6,794	18.61		765,54
20		1-Nov-26		\$	614,176	Н	7,159	19.61		271,49
21		1-Nov-27		\$	650,126		7,524	20.61		275,66
22		1-Nov-28	-	\$	660,274	П	7,890	21.62		268,52
23		1-Nov-29		\$	686,545	Н	8,255	22.62 23.62		267,82
24 25		1-Nov-30 1-Nov-31	⊢	\$	720,313 759,862	Н	8,620 8,985	24.62		269,54 372,75
26		1-Nov-32	┪	Š	785,861	Н	9,351	25.62		270,55
27		1-Nov-33	_	\$	817,720	П	9,716	26.62	\$	270,04
28		1-Nov-34		\$	883,847		10,081	27.62		279,91
29		1-Nov-35		\$	892,148		10,446	28.52		271,09
30	_	1-Nov-36	1	\$	949,039	Н	10,812	29.62		276,59
31		1-Nov-37 1-Nov-38	_	\$	973,411	Н	11,177 11,542	30.62 31.62		272,12 274,17
33		1-Nov-39		13-	1,063,132	Н	11,907	32.62	⊢ ′s	272,A7
34		1-Nov-40		Š	1,115,558	H	12,273	33.62		275,72
35		1-Nov-41		\$	1,205,020		12,638	34.62		285,17
36		1-Nov-42	_	\$	1,217,276	П	13,003	35.62		376,33
37	-	1-Nov-43	-	\$	1,266,560	Н	13,368	36.62		275,80
38		1-Nov-44		\$	1,329,484	Н	13,734 14,099	37.63 38.63		277,56 276,R8
40		1-Nov-46		3	1,467,706	Н	14,464	39.63	⊢ ;	282,05
41		1-Nov-47	_	\$	1,508,192	Н	14,829	40.63	_ š	278,01
42		1-Nov-48		\$	1,620,184	П	15,195	41.63	_ \$	286,45
43		1-Nov-49	-	\$	1,647,241		15,560	42.63	— .	279,36
44		1-Nov-50		\$	1,728,661	Н	15,925	43.63		281,22
45		1-Nov-51 1-Nov-52		\$	1,817,276	Н	16,290	44.63 45.63		283,58 282,36
47		1-Nov-52		\$	1,886,557 1,962,867	Н	16,656 17,021	45.63		282,30
48		1-Nov-54	_	Š	2,060,514	H	17,386	47.63		283,76
45		1-Nov-55		\$	2,185,122	Г	17,751	48.63	_ s	288,65
50		1-Nov-56		\$	2,271,573		18,117	49.64		287,81
51		1-Nov-57	-	\$	2,338,007		18,482	50.64	- 3	284,15
52 53		1-Nov-58		\$	2,455,586 2,553,629	\vdash	18,847 19,212	51.64 52.64		286,27
54		1-Nov-60	_	3	2,580,104	۲	19,578	53.64		285,57 287,46
55		1-Nov-61	_	3	2,813,553	t	19,943	54.64		289,47
56		1-Nov-62		\$	2,976,325		20,308	55.64		293,73
57		1-Nov-63		3	3,043,531		20,673	56.64		288,12
50		1-Nov-64		\$	3,195,116		21,039	57.64		290,11
59 60		1-Nov-65		\$	3,322,015		21,404	58.64		289,33
61		1-Nov-66	_	3	3,518,135 3,626,136		21,769 22,134	59.64 60.64		293,92 290,59
62		1-Nov-66		13	3,808,449	†-	22,500	61.64		292,73
63		1-Nov-69		\$	4,021,333	Г	22,865	62.54		296,49
	ı —	1-Nov-70	1 T	\$	1,247,131		23,230	63.64		88,20
64			-	_		-				

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APPENDIX B

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PRIVATE WEALTH MANAGEMENT

Trust & Investment Management Accounts

Schedule of Annual Fees

Sty. Trust Back charges the following test for its standard services to trust and investment management accounts each month."

A fee based on the value of the account according to the following schedule:

Annual Fe Minimum Annual F		Example of Annual Fees			
Percentage Fee	Narket Value	Market Value	Annual Fee	Average Annual Percentage Fee	
1.50% / year on the first	\$1,000,000	\$1,000,000	\$15,080	1.50%	
0.90% / year on the next	\$2,000,006	\$3,000,000	\$33,000	1.10%	
6.88% / year on the next	52,000,000	\$5,000,000	549,000	0.98%	
0.50% /year on values over	\$5,000,000	\$10,000,000	\$24,000	9.74%	

Plus

For irrevocable and restamentary trusts, and for asset protection trusts, a fee of D.XDS per year on the market value of the trust will be charged.

Other Fees

- A distribution fee of up to 2% of the current value of an orrevocable trust account, and on an asset protection trust, will be charged for the distribution of assets to any individual or institution, other than the granter or another account for which SunTrust acts in a fiduciary capacity.
- A processing fee of \$500 will be charged when an account closes, if a distribution fee is not charged.
- Transfers subject to post-martem administrative services shall be subject to additional legs as identified in the standard Executor Probate) schedule.
- Sunfrost may use shares of investment funds affiliated or not affiliated with SunTrust in trust and investment management
 accounts. When these funds are used, the client will pay but the full SunTrust fee as autimed in this schedule and the
 expenses directly attributable and charged by the funds ar outlined in their prospections.
- Accounts without unaffiliated sub-advisors or investment managers are subject to landfrust's standard fee schedule. In
 addition, these appearants are subject to fees that may be emerged by the sub-advisor. Sunfirst receives on additional monetery
 examplemental to the use or these sub-advisors. These additions, give advisor sets do not contribute to the Sunfirest Internum fee.

Extraordinary Services

Surfrust Bank will charge separately for extraordinary services out described in the governing document. Those charges may be based on hourly rates or upon the size, importance, difficulty and novelty or the service. The current bourly rates are:

Advisors \$250 per hope

Para-professionals 5125 per hour

Charges for integration, real estate services including purchases it sales, closely held business interests, business valuations, continuation or liquidation or business interests, tax services, and other services not described in the governing ducument will be charged in accordance with SunTrust's published acheeole or tees for such services applied at rates in effect at the time the services are randered. Out of packet expenses incurred by SunTrust or behalf at an account to facilitate its orientive administration may also be considered against the account.

When Sunfitust serves in a co-fiductory capacity the fid. Haudara annual compensation shall apply.

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[ం]త్రించినకు గార్ పాటు కుంటి ప్రాట్లో కుంటి కారాలు ప్రాట్లు కుంటించిన ఉంది. ఇంది కుంటి మాట్లో కుంటి కారుంచిన ఈ మాట్లు కార్కుడు కార్కుడు అద్దార్లు కుంటి ప్రాట్లుకుంటి ప్రాట్లుకు చేశారు. అనియోకు అన్ని కార్కు కార్లుకు పాటుకు మార్కెట్లు ప్రాట్లుకు అంది.

ന്നു. ക്രാവര് നെയ്യുന്നും ക്രൂവര് നായുന്നും ക്രാവര്യ വര്യ വര്യ വര്യ വര്യ ക്രൂമ്യ ക്രാവ്യ ക്രാവം ക്രുത്തിലുള്ള ഉ ത്രീക്ക് ക്രൂപ്പ് നയ്യ പ്രത്യ പ്രധാന വര്യ പ്രത്യായ പ്രധാന വര്യ പ്രത്യായ പ്രത്യായ പ്രത്യായ പ്രത്യായ പ്രത്യായ വര് പ്രത്യായ പ്ര

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PRIVATE WEALTH MANAGEMENT

Privately Held Investments

Schedule of Annual Fees

The fees listed below will be charged for ordinary datical performed in the management and sale of interests in real estate, mortgages, operat interests, and closely held business interests. These rees, when applicable, are in addition to market value fees set forth in the ree schedules for the administration of various types of Inductary and investment accounts. Additional fees may be charged for unusual or non-standard versions, and will be travel on the complexity of the service. Advance notice will be provided of any such fees.

Trust Real Estate & Mortgage Management

Issue Maintenance and Asset Management Fees:

· Per parcel or murtgage

\$300

· Un the market value of the assets

0.50%

Where SunTrust has been relieved through a written agreement, executed by SunTrust Bank and the Grantor, of its duty to
manage the Grantor's occupied real estate asset held in the Grantor's Reverable Trust; a flat fee of \$1000, per holding per year
will be charged.

Purchase and Sales Fee:

The fees that will be assessed for purchases or sales of interests in real estate and mortgages are as follows:

•	Purchase or Sale, if property is listed with a broker	3.5
*	Purchase or Sole unassisted	£1.
*	Purchase or Tax Deferred Exchanges	50
	· Sale of Timber Peterests or called an least and cross or allocateds when negatives if by PHI	10%

Mineral Oil and Gas Interests Producing & Non-Producing Interests

An annual maintenance fee per property or interest	5.700
Percentage of not revenue collected	6,0
 Lease negotiations (perpentage of burns) 	查閱
Receivery of eschedial funds	(%)
 Sale of Interest (percentage of proceeds) 	ŘŶΑ
* Protestations (percentage of quarket value)	55

Closely Held Business interests

The toblowing tees shall be charged for ordinary outles performed in the management of interests in mon-stack exchange traded cooperations, partnerships, limited bability companies, foint ventures and other such similar entities. These fees when applicable are in a distinct to market value sees set forth in the fee subsidies for the administration of various types of fiduciary and investment accounts.

- When Sunfrost has no Executivest respondent respond they so the asset, the hideling will be subject to a fee of \$100 per nording per year.
- When funfaces is responsible for the investment management is the asset, the holding will be subject to a fee of \$360 per bolding per year plus a fee of (LSO) of the asset's marker value.
- When Sunfrust provides advice or assistance in soling the assist a sales fee in the amount of 48 of the gross sales proceeds
 (\$250.00 nunimum feet will be applied.
- When SunTrust, one of its affiliates, officers or employees serves as an officer, director, general partner, managing member or in a similar capacity of a closely held company there will be a fee of \$5,000 per year.

This fee schedule may be changed from time to time after advance notice,



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